

Revised ed. Mulliken et al.

have any claim on the property in question. They might, after

There is no necessity of deciding on the question whether the wife of McQuire could have even an equitable right of dower in the premises in order to enable the Rooters to give a good receipt for the same, and to enable the Rooters to convey and pass the property to the purchaser. If the wife has any claim to the property, it is only an equitable claim, to be enforced in a Court of Equity. Her rights will be fully protected by an order of the Court of Equity, and the Rooters are authorized to apply to the Court for an order directing the same, and on such application, that the wife be notified thereof and to make her claim for such part of the proceeds of the land as she may be entitled to in accordance with the above may be prepared.

I see nothing in the paper on which this motion is based, or in what is said in the complaint, and the order of the Court.

There is an irregularity in continuing the adjournment. Exceeding it was a violation of the injunction, still it did not affect the regularity of the proceedings, and the order of the Court is correct. The paper permitted it, so that no public mischief even could have been imposed on the Sheriff for the adjournment.

It is also objection to a sale under a mortgage that the sale is not a sale of the property, but a sale of the property of the party who has paid the money, and if the purchaser pays the money, the sale is all right, whether the purchaser is an alien or not.

There is no objection to the sale of the property, as there is no offer in the paper to his assigning more. This is always necessary where a party moves for a sale on that ground. The injunction as modified does not require a defendant to assign the plaintiff to proceed. It was not necessary, after judgment to substitute Russell as attorney. Any attorney not on record is not permitted to execute the judgment. The rule only applies before judgment.

The main question in the case is whether the assignment of the judgment could proceed to enforce the payment, without a sale of the property, and the judgment is the assignment of the judgment.

The Motion assigned to the plaintiff in the foreclosure sale was necessary before enforcing it. On the contrary, the sale is an enforcement of the judgment, and is a sufficient enforcement of the judgment by the party holding it may enforce his security by proceeding upon the judgment, if the money is not paid.

As the defendant has appeared from the order varying the injunction in part, he will have that order reviewed by the Justices of the Court, as well as have the right to try the questions in the case, and to have the Court decide upon the merits of the questions presented on this motion in a form in which they can be better decided than on oral affidavits.

The Motion is also assigned to the defendant, and the motion is to confirm the Sheriff's report of sale granted, without costs on either motion.

Before Judge BUTLERSON.

Reverend Judge Ostrander.

The motion made before me at Chambers in this case must be denied.

The defendant in the complaint, and of the plaintiff's rights, are all wrong, and the judgment in the action is probably irregular and void, but I do not think it can be pronounced so on this irregularity, and the defendant's petition of any party interested in it should be by *ad litem*, think.

The children of Richard Nixon, the testator, took, under the will, the land and the money.

The devise is to executors in trust. The executors took the land title. The children of the testator took an had no legal estate in the land, but they were entitled to the money.

By the death of all the executors named in the will, the trust of the will has devolved on this Court, who can appoint a trustee or trustees, capable of giving a good receipt for the money.

The Court has a lot of power to make this motion; whether it is the purchaser under the judgment, or his assignee, or not.

This motion must be denied, without costs, but the money advanced by the plaintiff for the purpose of the judgment on the writ of habeas corpus, and the balance of the judgment on the writ, must be satisfied by them for 30 days, at the expiration of which time the writ of habeas corpus and the money advanced must be continued in force and effect for 30 days, and in the mean time the purchaser, his successors or the mortgagee of his interest in the premises, or the person receiving the purchase money, or the person who held under the judgment and sale, must commence an action to settle the judgment, and sale, for a return of the same, and for or to set aside the judgment, and sale, and to pay to the parties to the action, for the appointment of a trustee, and for any other or further relief in or to which they may be advised, making all possible provision for costs to such action.

UNITED STATES CIRCUIT COURT—MARCH 8.—Before
J. H. HARRIS, Chief Justice.

SMUGGLING—INDICTMENTS.

Wm. Eames was tried for smuggling watches, and a verdict of guilty was rendered against him on the count. The fine was \$500, and he was sentenced to the penitentiary for 12 months.

The Grand Jury returned indictments against the following persons:

James H. Eames, for passing counterfeit coin.

Michael Doody, for the same offense.

Henry Boldt, accused mate of the ship Wild Pigeon, for smuggling watches, and for passing counterfeit gold.

Corinna Nages, for passing counterfeit coin.

John Lloyd, indicted for passing false invoices, pleaded guilty, and his case was put over to the April term.

SUPERIOR COURT—GRANDE RAPIDS—MARCH 14.—Before Judge
Wm. B. Scott et al., vs. Jonathan T. Johnson.
 Case settled.

SURROGATE'S COURT—MARCH 14.—Before Mr. EDWARD C.
WEST.

WILLS OFFERED FOR PROBATE.
 Robert Clark, citation returnable March 14.
 William Edna Zimring, citation returnable March 14.
 Maria C. Johnson, citation returnable March 14.
 Daniel Kelly, citation returnable March 14.
 John Huchard, citation returnable March 14.
 Thomas W. Miller, citation returnable March 14.
 Catherine Moore, citation returnable April 13.
 Elizabeth Gies, citation returnable April 7.

WILLS ADMITTED TO PROBATE.
 Daniel P. Fyrd, Mary Bonenville,
 Jacob P. Gies, John Finland,
 Lewis Lay, David P. Bridge, John McLaughlin, ass.
 Samuel L. Jordan, John McLaughlin, ass.

WILL OF HERMAN WEINBERGERS.
 Deceased was a passenger on board the ill-fated steamer
 Austria. His will was located to probate this morning, and
 the court took the case under advisement. It was expected that
 the presumption that deceased perished by the burning of the
 steamer.

COURT OF COMMON PLEAS—MARCH 18.—Before Judge
ITALY.
 Henry Boleas et al., vs. Isaac L. L.

This action was brought to recover the sum of
 \$750 damages. Plaintiff was the owner of No. 13 Clinton
 street, in this city, where he carried on a brewery. The defend-
 ant took the premises and the building thereon, and caused an
 exit of the latter there was a sink, which the plaintiff alled-

COURT OF GENERAL SESSIONS—MARCH 8.—Before Judge J. C. Russell.

Bridget Boyle pleaded guilty to petit larceny, in stealing silk dress, and was sentenced to the City Prison for 60 days.

Daniel Dempsey, pleaded guilty to an attempt at grand larceny, and was sentenced to the Penitentiary for 1 year.

Carthage Morgan, was charged of larceny, in the fourth degree, and went to the Penitentiary for 2 years.

Leola Haines, convicted some months ago for an attempt at grand larceny but then allowed to go, on condition of his good behavior, was brought up, to have continued his disreputable career, and sentenced to the State Prison for 2 years.

James Murphy, convicted of burglary, was sent to the State Prison for 1 year.

COURT OF SPECIAL SESSIONS—MARCH 8.—Before Justices BROWNELL, WALSH and OSBORN.

Bridget Coffey, stealing clothing and money. Paul Coffey, her husband, charged with the same offense, pleaded guilty to the charges. Coffey, charged with stealing a horse, pleaded remanded. Joseph Fontana, second and battery, Penitentiary six months. Susan Ogan, stealing state road, Penitentiary two months. Martin Jay, stealing bank notes and money, judgment suspended. Timothy Kennedy, stealing six pounds tobacco, judgment suspended. James Lynch, stealing a piece of calico, Penitentiary three months. Patrick McNally, assault and battery, Penitentiary two months.

[illegible]

BROOKLYN ITEMS.

THE NEW FERRY COMPANY.—At last the controversy between the Long Island Ferry Company (the new lessee of Peck-slip Ferry) and the old Peck-slip Company has been settled by the old Company refusing to sell their property to the new Company at the price offered by them, and the Long Island Ferry Company have purchased and will commence operations on the property at the foot of South Eighth street, where they will erect a double slip and run their boats to Peck-slip. Until new boats can be built they intend to charter a sufficient number to run their ferry by the first of May.

The price demanded by the old Company for the leased property at the foot of South Seventh street and the houses at Peck slip and Grand street was about \$150,000. This it is understood George Law agreed to give, but the new Company thought it was not

worth, that said wished to leave the price to arbitration, which the old Company would not consent to. The old Company wanted from \$12,000 to \$14,000 for each of their boats, and the new Company did not think